IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 10111 of 2004

Between:

M/s.Sri Rama Wines, H.No.5-12-5, Station Ghanpur, S/o.Krishna Reddy, R/o.Station Ghanpur, Warangal District.

..... PETITIONER

AND

1 The Commissioner of Prohibition & Excise, A.P.Nampally, Hyderabad.
2 The Prohibition & Excise Superintendent, Warangal Dist.Warangal.
3 Sri N.V.L.Narasimha Reddy, S/o.Ranga Reddy, Licencee of M/s.Venkata Ramana Wines, R/o.Ghanpur (Station), Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ order or direction by declaring the impugned proceedings in Rc.No.834/2004/P&E/B8 dated 20-5-2004 as illegal, void contrary to the Rule and without any opportunity for shifting the premises from existing premises H.No..4-53/1/D to H.No.5-2/1, station Ghanpur of Warangal District and set aside the same further declare that the 1st respondent herein has approved the shifting of premises contrary to his own instructions dt.3-4-2003 in the interest of justice and equity and pass.

Counsel for the Petitioner:MR.I.LAXMIKANTHA RAO

Counsel for the Respondent No.1 & 2: GP FOR PROHIBITION & EXCISE

Counsel for the Respondent No.3: Sri.S.M.SUBHAN

The Court made the following :

ORDER:

Heard both sides and at their request, the main writ petition is taken up for disposal.

The petitioner, who is running an IL-24 shop, filed this writ petition, inter alia, seeking to assail the impugned order dated 20.05.2004 passed by the first respondent herein, allowing shifting of the shop of the contesting respondent No.3 herein from the existing premises bearing H.No.4-53/1/D to H.No.5-2/1, Station Ghanpur of Warangal District.

The case of the petitioner, in brief, is that having regard to the instructions issued with a restriction of keeping 50 meters distance in between two shops, the first respondent ought not have ordered for shifting, which is hardly at a short distance from the petitioners shop. Therefore, the impugned order is illegal.

Learned Government Pleader appearing on behalf of the respondents, submits that the very same circular dated 03.04.2003 imposing restriction, had already been held to be violative as per the judgment of this Court in ***Kanakadurga wines v. Government of Andhra Pradesh Revenue(Excise –III) Department and others*** and therefore, the petitioner is not entitled to raise any such objection.

Having heard both the counsel and also on perusal of the material on record, it is seen that no objection in regard to the distance as sought to be maintained from the circular of the respondents herein, does not hold good in view of the aforesaid decision of this Court. Further, the petitioner states that he has already filed objection in regard to the shifting, pointing out various aspects, which needs to be considered. In the impugned order, no reason is mentioned or the said objections

are considered.

In the circumstances, the writ petition is accordingly dismissed. However, it shall be open to the respondents herein to consider the petitioner's objection and pass appropriate orders in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

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31-08-2004

Jsu

Note:

Issue C.C. in three days

B/o

Jsu

To

1 The Commissioner of Prohibition & Excise, A.P.Nampally, Hyderabad.
2 The Prohibition & Excise Superintendent, Warangal Dist.Warangal.
3 2 CCs to the Government Pleader for Excise and Prohibition, High Court Buildings, Hyderabad.(OUT)

4 2 CD copies.